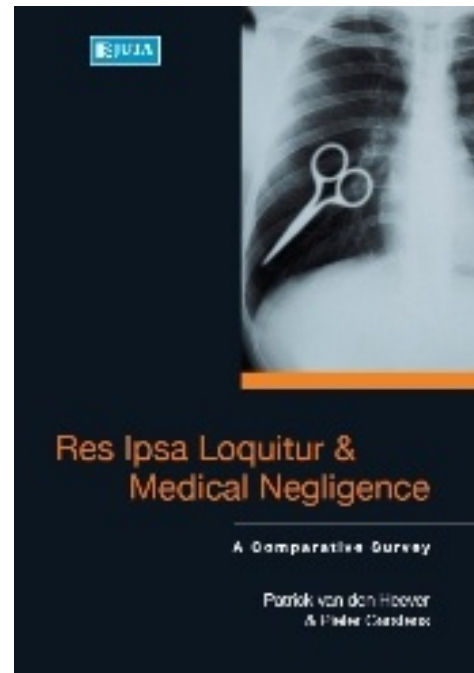


Res Ipsa Loquitur & Medical Negligence

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About this Publication:

Res Ipsa Loquitur and Medical Negligence: A Comparative Survey analyses the application of the doctrine of *res ipsa loquitur* ('it speaks for itself') to medical negligence cases. The book aims to establish conclusively that the approach of the South African courts, that the doctrine should never find application in medical negligence cases, is untenable and out of touch with modern approaches adopted in other countries. Constitutional principles such as procedural equality, access to courts, access to health care, access to information, post-constitutional legislation, medical ethics and policy considerations are also discussed. The book further provides a theoretical and practical legal framework for the application of the doctrine to medical negligence cases in South Africa in future. The authors argue for the application of the doctrine, not only in medical negligence cases, but also to related legal procedures that follow a medical accident such as medical inquests, criminal prosecutions and disciplinary inquiries instituted by the Health Professions Council of South Africa. *Res Ipsa Loquitur and Medical Negligence* includes a comprehensive comparison of the practical application of the doctrine to medical negligence cases in South Africa, England and the United States of America.

Key Features

- The only book to set out the use of the doctrine of *res ipsa loquitur* in medical negligence cases
- Analyses all local and key international cases
- Sets out the procedural requirements for invoking and using the doctrine
- Useful for defendants arguing in rebuttal
- Explains how to plead *res ipsa loquitur* in medical negligence cases

Contents Include:

- Origin and development of the doctrine in SA, England & USA
- The application of *res ipsa loquitur* to medical negligence in South Africa
- Requirements for invocation of the doctrine
- The procedural requirements of the doctrine
- Pleading *res ipsa loquitur* medical negligence cases
- The nature of the defendant's explanation in rebuttal
- Onus of proof
- Case Law
- Constitutional imperatives for application of the doctrine in South Africa

Of Interest and Benefit to:

- Attorneys dealing with medical law
- Judges
- Advocates